

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CYRIL KOLOCOTRONIS,
Plaintiff,

v.

DJ CUNNINGHAM,
Defendant.

Case No. C05-5160RBL

REPORT AND
RECOMMENDATION TO DENY
APPLICATION TO PROCEED *IN*
FORMA PAUPERIS

Noted for June 24, 2005

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff has filed a civil rights complaint under 42 U.S.C. § 1983 and an application to proceed *in forma pauperis*. To file a complaint and initiate legal proceedings, plaintiff must pay a filing fee of \$250.00 or file a proper application to proceed *in forma pauperis*. Because plaintiff has failed to respond to the court's order to show cause, the undersigned recommends the court deny her application.

DISCUSSION

The court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Several district courts have ruled that denial of *in forma pauperis* status is not

1 unreasonable when the plaintiff is able to pay the initial expenses required to commence a lawsuit. See
2 Temple v. Ellerthorpe, 586 F.Supp. 848 (D.R.I. 1984); Braden v. Estelle, 428 F.Supp. 595 (S.D.Tex.
3 1977); U.S. ex rel. Irons v. Com. of Pa., 407 F.Supp. 746 (M.D.Pa. 1976); Shimabuku v. Britton, 357
4 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); Ward v. Werner, 61 F.R.D. 639 (M.D.Pa.
5 1974).

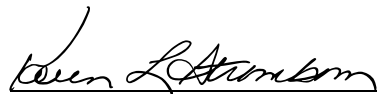
6 On March 7, 2005, the clerk received plaintiff's complaint and application to proceed *in forma*
7 *pauperis*. (Dkt. #1). On April 4, 2005, the court ordered plaintiff to cure certain deficiencies in his
8 application by no later than May 4, 2005, or show cause why this matter should not be dismissed. (Dkt.
9 #3). To date, however, plaintiff has not responded to the court's order to show cause.

10 CONCLUSION

11 Because plaintiff has failed to respond to the court's order to show cause regarding her deficient
12 application to proceed *in forma pauperis*, the undersigned recommends the court deny that application.
13 Accordingly, the undersigned also recommends the court dismiss plaintiff's complaint unless she pays the
14 required \$250.00 filing fee **within thirty (30) days** of the court's order.

15 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rules of Civil Procedure ("Fed. R. Civ. P.") 72(b),
16 the parties shall have ten (10) days from service of this Report and Recommendation to file written
17 objections thereto. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those
18 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit
19 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set this matter for consideration on **June 24,**
20 **2005**, as noted in the caption.

21 Dated this 1st day of June, 2005.

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25 Karen L. Strombom
26 United States Magistrate Judge
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